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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,727	09/19/2003	Cesar C. Carriazo	C259 1010.1	6051

7590 05/27/2005  
WOMBLE CARLYLE SANDRIDGE & RICE  
P.O. Box 7037  
Atlanta, GA 30357-0037

EXAMINER

GHERBI, SUZETTE JAIME J

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 05/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/666,727

Applicant(s)

CARRIAZO, CESAR C.

Examiner

Suzette J Gherbi

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,9,16-18,24 and 25 is/are rejected.
- 7) ☒ Claim(s) 3-8,10,12-15,19-23,26 and 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Applicant's amendment and comments dated 2/22/05 have been received in application serial number 10/666,727.

#### ***Claim Objections***

2. Claim 22 is objected to because of the following informalities: Applicant has used the incorrect status identifier. The status identifier should say (currently amended) 37 CFR 1.121. Appropriate correction is required.

#### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-23 have been considered (*although it is noted that Muguerza does disclose a "cut out portion" (4) as mentioned in the abstract which meets the limitation of circular opening*) but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-2, 9, 11, 16-18, 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richer 5,628,797 in view of Blake 4,446,581. Richer discloses the invention as claimed noting figures 1 and 2 comprising: An implant for altering the iris color with a colored biocompatible and flexible material (see col. 2, lines 38-40, lines 52-57); formed annularly thereby forming an annular area coming to rest on the iris of the eye and wherein the implant has a central circular opening (see col. 2, lines 43-45 which states the optic is not continuous over and does not cover the entire iris, being donut or ring shaped and methods of implantation.. However Richer does not state that there is an attachment means within the annular area. Blake teaches an IOL made of PMMA that encompasses attachment means (22, 23) for the purpose of additional anchoring in the eye. It would have been obvious to one having ordinary skill in the art at the time the invention was made to take the implant of Richer and supply holes for anchoring as taught by Blake because both devices are made from the same material (PMMA) and are capable of adding these means for attaching and is deemed a design consideration.

***Allowable Subject Matter***

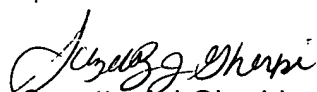
6. Claims 3-8, 10, 12-15, 19-21, 22-23 and 26-27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzette J. Jackson whose work schedule is Monday-Friday 9-6:30 off every other Friday and whose telephone number is 571-272-4751.

8. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306.

9. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

  
Suzette J-J Gherbi  
16 May 2005